

LR85-AR00-8 Retention/Destruction of Evidence Schedules

(A.) *In all cases, the Court shall proceed pursuant to these rules unless the Court directs a longer retention period after motion by any party or on its own motion.*

(B.) RETENTION PERIOD FOR EVIDENCE INTRODUCED IN CIVIL CASES

Civil cases, including Adoption, Paternity, and Juvenile proceedings. All models, diagrams, documents or material admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them into evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the Court Reporter for two (2) years from the termination of the appeal, retrial, or subsequent appeal and termination, whichever is later.

The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

(C.) RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL, MISDEMEANOR, CLASS C AND CLASS D FELONIES AND ATTEMPTS

Misdemeanor, Class C and Class D Felonies and Attempts. All models, diagrams, documents or mater admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, three (3) years after the case is dismissed, the defendant found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the Court Reporter for three (3) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging conviction or sentence or post-conviction action is pending.

The Court Reporter shall retain the mechanical or electronic records or tapes shorthand or stenographic notes as provided by Administrative Rule 7.

(D.) RETENTION PERIODS FOR EVIDENCE INTRODUCED IN CRIMINAL CLASS A AND CLASS B FELONIES, MURDER AND ATTEMPTS

Class A and Class B Felonies, Murder, and Attempts. All models, diagrams, documents, or material admitted in evidence or pertaining to the case placed in the custody of the Court Reporter as exhibits shall be taken away by the parties offering them in evidence, except as otherwise ordered by the Court, twenty (20) years after the case is dismissed, the defendant found not guilty or the defendant is sentenced, unless an appeal is taken. If an appeal is taken, all such exhibits shall be retained by the Court Reporter for twenty (20) years from termination of the appeal, retrial, or subsequent appeal and termination, whichever is later, unless an action challenging the conviction or sentence or post-conviction action is pending.

The Court Reporter shall retain the mechanical or electronic records or tapes, shorthand or stenographic notes as provided in Administrative Rule 7.

(E) Non-documentary and Oversized Exhibits. Non-documentary and oversized exhibits shall not be sent to the Appellate level Court, but shall remain in the custody of the trial Court during the appeal. Such exhibits shall be briefly identified in the transcript where they were admitted into evidence. Photographs of any exhibit may be included in the volume of documentary exhibits.

Under no circumstances should drugs, currency or other dangerous or valuable items be included in appellate records.

(F.) Notification and Disposition. In all cases, Court shall provide actual notice, by mail, to all attorneys of record and to parties only if unrepresented by Counsel, that the evidence will be destroyed by a date certain if not retrieved before that date. Counsel and the parties have the duty to keep the Court informed of their current addresses and notice of the last current address shall be sufficient. Court Reporters should maintain a log of retained evidence and scheduled disposition date and evidence should be held in a secure area. AT the time of removal, detailed receipts shall be given to the Court Reporter by the party receiving and removing the evidence and the receipt will be made part of the Court's file.

(G.) In all cases, evidence which is not retaken under notice should be disposed of by the Sheriff on the Court's order. The Sheriff should be ordered to destroy evidence if its possession is illegal or if it has negligible value. Evidence of some value should be auctioned by the Sheriff with proceeds going to the county general fund.

(H.) Biologically Contaminated Evidence. A party who offers biologically contaminated evidence must file a pre-trial notice with the trial Court and serve all the parties so that the Court can consider the issue and rule appropriately before trial. A party can show contaminated evidence or pass photographs of it to the jury, but no such evidence, however contained, shall be handled or passed to jurors or sent to the jury room.